IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7185 OF 2005

The State of Maharashtra .. Applicant.
Vs.
Preetam Namdev Sontake .. Respondent.

Mr.A.S.Shitole A.P.P. for the applicant.

CORAM : D.B.BHOSALE, J.

DATED : 7th JUNE, 2006

P.C.:

. Heard learned A.P.P. for the applicant.

2. This appeal is directed against the judgment of acquittal of the respondent-accused, who was charged and tried for the offence punishable under section 457 and 380 of I.P.C. The case of the prosecution is that on 27.10.2004 at about 8.15 p.m. the complainant closed his shop and went home. He thereafter at about 8.30 - 9.30 p.m. received a telephonic message from his employee - Parshuram Adagale, who intimated him about the theft in the shop. On reaching the shop, the complainant found that 100 scooter foam seats and one iron bar had been stolen from his shop. The prosecution has examined as many as seven witnesses consisting of the complainant, scrap merchant, investigating officer, constable and panch witnesses etc. On appreciation of the evidence

of all the witnesses and in particular the panch witnesses in whose presence the accused allegedly produced the stolen material, the trial Court has recorded a categoric finding that the discovery of the iron bar at the instance of the accused has not been proved at all and the evidence of the panchas to prove recovery of the said bar and even other material is not worth believing. There are several material inconsistencies in the testimony of these witnesses. Admittedly, there is no direct evidence against the accused except the alleged recovery of iron bar. Considering the totality of circumstance and the reasons recorded by the Court below on appreciation of the evidence on record it cannot be said that the judgment of acquittal is unreasonable and perverse. The view taken by the Court below is reasonably possible view. I find absolutely no reason to grant leave to file appeal against the impugned judgment of the acquittal. The application is, accordingly, rejected.

(D.B.Bhosale, J.)